

IN THE SUPREME COURT OF THE STATE OF FLORIDA

CASE NO. SC03-833

INQUIRY CONCERNING A JUDGE NO. 02-370

RE: JUDGE CARVEN D. ANGEL

REPLY TO AFFIRMATIVE DEFENSES

The Judicial Qualifications Commission (the “JQC”) for its in reply to Judge Carven D. Angel’s (“Judge Angel”) affirmative defenses states.

FIRST AFFIRMATIVE DEFENSE

The JQC denies that this is a legally sufficient defense and demands strict proof thereof. The pendency of Judge Angel’s federal appeal does not affect or impair the JQC’s jurisdiction herein because both proceedings can go forward concurrently. Moreover, the federal courts have already declined to exercise jurisdiction in deference to this ongoing JQC proceeding and refused to enjoin this proceeding.

SECOND AFFIRMATIVE DEFENSE

The JQC denies that this is a legally sufficient defense and demands strict proof thereof. The Judicial Canons Judge Angel challenges are constitutional because they are narrowly tailored to serve compelling and vital state interests in, inter alia, assuring the independence, nonpartisanship and impartiality of the judiciary and maintaining public confidence in the same. Additionally, the challenged Judicial Canons cannot be held void for vagueness because they were and are clear and understandable to persons of common intelligence and Judge Angel in fact knew that the conduct for which he has been charged was prohibited.

THIRD AFFIRMATIVE DEFENSE

The JQC denies that this is a legally sufficient defense and demands strict proof thereof. The Judicial Canons Judge Angel challenges are constitutional because they are narrowly tailored to serve compelling and vital state interests in, inter alia, assuring the independence, nonpartisanship and impartiality of the judiciary and maintaining public confidence in the same. Additionally, the challenged Judicial Canons cannot be held void for vagueness because they were and are clear and understandable to persons of common intelligence and Judge Angel in fact knew that the conduct for which he has been charged was prohibited.

FOURTH AFFIRMATIVE DEFENSE

The JQC denies that this is a legally sufficient defense and demands strict proof thereof. Furthermore, the statutory scheme for nonpartisan elections Judge Angel challenges is constitutional because it is narrowly tailored to serve compelling and vital state interests in, inter alia, assuring the independence, nonpartisanship and impartiality of the Florida Courts and maintaining public confidence in the same. Additionally, the statutory scheme cannot be held void for vagueness because it was and is clear and understandable to persons of common intelligence and Judge Angel in fact knew that the conduct for which he has been charged was prohibited.

FIFTH AFFIRMATIVE DEFENSE

The JQC denies that this is a legally sufficient defense and demands strict proof thereof. Furthermore, the statutory scheme for nonpartisan elections Judge Angel challenges is constitutional because it is narrowly tailored to serve compelling and vital state interests in, inter alia, assuring the independence, nonpartisanship and impartiality

of the judiciary and maintaining public confidence in the same. Additionally, the statutory scheme cannot be held void for vagueness because it was and is clear and understandable to persons of common intelligence and Judge Angel in fact knew that the conduct for which he has been charged was prohibited.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true and correct copy of **Reply to Affirmative Defenses** has been furnished by U.S. Mail to **Edwin C. Cluster, Esquire**, 21 NE First Avenue, Post Office Box 1148, Ocala, FL 34478 on July 1, 2003.

Attorney